

## **Update on Case Resolution**

**6<sup>th</sup> August 2008**

### Introduction:

1. This short note is to accompany a discussion on the Case Resolution (legacy) programme currently in operation by the Home Office. The discussion will take place on Thursday, 7<sup>th</sup> August at the Migrants Resource Centre.

### General background:

2. The Case Resolution programme was announced in July 2006. At that time, it was stated that the Home Office had an asylum backlog of between 400,000 and 450,000 outstanding case records. The aim of the programme is to clear this backlog no later than July 2011 (i.e within 5 years of the announcement).
3. The Case Resolution Directorate (CRD) is the part of the Home Office which is responsible for the backlog and its clearance.
4. ILPA has produced information relating to the Case Resolution programme in 6 information sheets – ‘Legacy Cases Nos. 1-6’. These are available in the Info Service section of the ILPA website at [www.ilpa.org.uk](http://www.ilpa.org.uk)

### Progress to date by the CRD:

5. In July 2008, the Home Office wrote to the Home Affairs Committee to update them on progress made by the CRD. The Home Office informed the Committee that the CRD had concluded more than 90,000 cases by the end of May 2008. Of these cases, the Home Office provided the following further information:
  - a. The 90,000 figure includes dependants. Of this 90,000 only 67,000 were main applicants; 23,000 were dependants.

- b. There were 20,000 removals (22%), 39,000 decisions to grant some form of leave to remain (43%), and in 32,000 cases the case record was closed because the CRD had concluded that the record was an error or duplicate (35%).
- c. Although there is a substantial difference between the numbers of removals and decisions to grant, this is in part explained by the numbers of dependants. Of the 20,000 removals, 18,000 were main applicants (2,000 dependants); whereas of the 39,000 grants, 21,000 were main applicants (18,000 dependants). This appears to reflect that families, where there are children under 18 years of age, have received a substantial number of the decisions to grant.
- d. Of the 20,000 removals, 6,500 were in receipt of asylum support prior to removal. Of the 39,000 grants, 16,500 were in receipt of asylum support prior to grant.
- e. Of the 20,000 removals and 39,000 grants, a very small number appeared to the CRD to have some criminal history. However, the Criminal Casework Directorate is likely dealing with most of the cases where there is a criminal record in the UK.
- f. Of the 20,000 removals, the ten largest nationality groups were from Turkey (2,000), Afghanistan (1,500), Kosovo (1,150), Iraq (1,100), Pakistan (1,050), Iran (800), India (750), Sri Lanka (750), Albania (700) and Nigeria (600). It should be noted that the Home Office do not indicate how many of these removals were in fact voluntary departures; nor how many were returns to the person's country of origin rather than to a third country. The Home Office do provide further information regarding how long the cases had been outstanding with the Home Office prior to removal – under 3 years in 21% (4,200), between 3 and 7 years in 54% (10,800) and more than 7 years in 25% (5,000).



- d. The CRD do not have a clear and settled figure for the number of cases in the backlog; and there is no breakdown of the backlog that indicates how many or what percentage of all the cases have been outstanding with the Home Office for 3 to 7 years or more than 7 years. What is likely, however, is that the longer a case has been outstanding with the Home Office (particularly where there has been a final refusal in the past), the less likely it is that the individual is in receipt of asylum support. Cases where the individual is supported have been treated as a priority; and so the small percentage (8%) of grants for the longer cases may simply reflect that the Home Office has not been considering many of these cases (unless these were family cases – family cases are more likely to be still in receipt of support).
- e. The Home Office figures show that a large percentage (35%) of conclusions were simply that the CRD found that the case record was an error (e.g. that it was a duplicate or should have been closed because the individual had already left the UK or been granted status). However, it is important to note that, on average, it takes the CRD very much less time to discover that a case record is an error and close such a case, than it takes to remove someone. It is likely that it takes the CRD, on average, significantly longer to conclude a case by removal than to conclude a case by grant. Given that the CRD has only been fully operational for about 7 months, it is likely that the higher percentages for errors and grants reflects that these cases have been concluded more quickly. The high number of errors may also reflect that the CRD has, in seeking to increase the number of conclusions in the short term, devoted disproportionate energy to dealing with cases that seem likely to prove to be errors.
- f. A detailed and accurate analysis of these figures is not realistic. It may be many more months before such an analysis could sensibly be made; and it may be that this is not possible even after that. However, two general observations can be made. Firstly, the figures do reveal that there is no general amnesty – there are a substantial number of cases

where people have been removed, including people who have been in the UK for many years. Secondly, although there is no general amnesty, many people have been granted leave to remain through the Case Resolution programme. Although this provides no guarantee for anyone, it does suggest that there are good reasons for individuals (assuming they do not currently have legal representation) to seek legal advice about their individual circumstances.

Other developments and matters of interest:

8. Recent CRD developments include new procedures for contacting and getting information from the CRD. The most recent information sheets 'Legacy Cases Nos. 4-6' provide information about these developments. Although these new procedures are welcome, they are not operating consistently. This is a problem because, although when the procedures do operate properly this may be very helpful in the individual case, individuals and legal representatives cannot rely on the procedures being operated.
  
9. There is growing concern that the CRD will not clear the asylum backlog by July 2011. This relates to two factors. Firstly, it is not clear that the current conclusion rate will be sufficient; and there is some concern that the more difficult cases to resolve are being left to last. If this proves true, the conclusion rate will likely get slower. Secondly, the CRD has indicated that it will regard a case as concluded if the individual has some form of status as at July 2011. However, many forms of status require that a person apply for an extension of leave in the future. This is particularly relevant to cases where the status is discretionary leave because the current Home Office policy requires that when any extension request is considered the case will be subjected to a full, active review. Just as many people in the current backlog have outstanding extension requests, it seems that there may be people after July 2011 whose situation will not be fully resolved because they too will need to make extension requests in the future.

10. In June 2008, the House of Lords gave judgment in a number of cases concerning Article 8 (the right to private and family life) and immigration. These cases are likely to be of particular importance where someone has established a family (e.g. married and had children) in the UK with someone who is British or is otherwise permitted to stay in the UK; or where there have been substantial delays on the part of the Home Office. An ILPA information sheet “Article 8 judgments” is expected to be available shortly.
11. In July 2008, the European Court of Justice gave an important judgment for anyone who has married an EEA (European Economic Area) national in the UK. An ILPA information sheet will likely be available next month.
12. In July 2008, the House of Lords gave judgment upon the Home Office scheme which requires migrants in the UK to obtain permission before they may marry in the UK. The Home Office is reviewing its scheme in the light of the judgment. An ILPA information sheet will likely be available next month.
13. In July 2008, the Home Office indicated that it is reviewing the future of the Long Residence Rules. Although the outcome of that review is not known, it is possible that this may lead to the withdrawal of the Long Residence Rules. An ILPA information sheet “Long Residence Rules” is expected to be available shortly.
14. The ongoing suspension of removals to Zimbabwe is set to remain following a decision by the Court of Appeal in July 2008 to stay the Country Guidance case of *HS (Zimbabwe)* and the decision by the Asylum and Immigration Tribunal to hear a new Country Guidance on Zimbabwe in September 2008.

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